DR. WARREN'S CHANCERY SUIT.

Dr. Warren having appealed to the Court of Chancery, against his suspension by the Preachers of the Manchester District, his case was heard by the Vice-Chancellor, on Saturday, February 28th, and Monday and Tuesday, the 2d and 3d of March. The District-Meeting requested Mr. Newton to undertake the superintendency of the First Manchester Circuit in the Doctor's place; and the object of this application to the Court of Chancery was, to obtain an injunction against Mr. Newton, and the Trustees of the Oldham-street chapel, Manchester, all of whom concurred in the Doctor's exclusion from their pulpit; and against those Trustees of the Wesley chapel, in Oldham-road, who also approved of the suspension, and of Mr. Newton's ministry in that place: two or three of the Trustees of the latter chapel making common cause with the Doctor, and uniting with him in applying to the Court for his restoration to the exercise of his ministerial functions. The case excited the deepest interest; and during the three days in which it was argued, the Court was crowded to excess by persons who were anxious to witness the result. The Counsel employed for the Plaintiffs were, Sir Charles Wetherell, Mr. Knight, Mr. Kindersley, and Mr. Parker; for the Defendants, Sir William Horne, Mr Rolfe, and Mr. Piggott. On both sides very superior ability was displayed, and each of the learned Gentlemen seemed to put forth his full powers in behalf of his clients. The Doctor's Counsel appear to have been instructed to treat the character of some of the most esteemed and venerated Ministers in the Methodist Connexion with sarcasm and invective, and to hold them up to the Court and the nation as objects of distrust and even reprobation. Never were censures and degrading comparisons more obviously misapplied than against such men as the Rev. Messrs. Taylor, Bunting, and Newton. The Defendants, and indeed the Wesleyan body generally, are greatly indebted to the learned Counsel on the other side, for the deep attention which they had evidently paid to the subject, and the clear and convincing manner in which they stated and defended the rules and usages of the Connexion.

The following is the decision of his Honour the Vice-Chancellor, after a patient hearing of the arguments of Counsel, and a careful examination of the documents:—

This case appears to me to have been argued with very great ability on both sides; and I think with great reason, for I do not concur in an observation made by one of the learned Counsel, Mr. Rolfe, that the question is one of a trifling nature. I do not think that any question can be deemed or considered of a trifling nature which concerns the well-being—I may almost say the existence—of a body such as that which is composed of the Wesleyan Methodists. It is my firm belief, that to that body we are indebted for a large portion of the religious feeling which exists among the general body of the community, not only of this country, but throughout a great portion of the civilized world besides. When, also, I recollect, that this society owes its origin and first formation to an individual so eminently distinguished as the late John Wesley, and when I remember that, from time to time, there have arisen out of this body some of the most able and distinguished individuals that ever graced and ornamented any society whatever,—I may name one for all, the late Dr. Adam Clarke,—I must come to the conclusion, that no persons who have any proper understanding of what religion is, and regard for it, can look upon the general body of the Wesleyan Methodists without the most affectionate interest and concern.

The question now before me is this,—Whether the Court of Chancery is to interfere in a case, in which the Trustees of a chapel have virtually excluded Dr. Warren, or any other gentleman, from preaching or performing any other duty in that chapel, to which he had originally been appointed unquestionably in a lawful and proper manner. It has been said that this Court has no jurisdiction in such a case. Now, that is a proposition to which I cannot accede; for it appears to me that by the deeds themselves, which had the effect of making certain persons Trustees of this chapel for certain purposes, a trust

is of necessity created: and I do not know why, merely because this is a trust affecting particular individuals who have formed themselves into a voluntary society, that it is not to be regarded, and not to be treated, by this Court, just precisely in the same manner as any other trusts affecting the common and every day concerns of life. My own opinion is, that those persons who are called Trustees are Trustees in the strict sense of the word, having a legal dominion over the chapel in question, but holding the trust which they are possessed of, not for the benefit of themselves, but of certain other parties, for whose benefit the trust is constituted. Here a trust is, therefore, created, over which this Court will exercise a jurisdiction.

Then I must consider, whether, under the circumstances of this case, it is right and proper that the Court should interfere in the manner sought for by the plaintiff Dr. Warren. It is to be observed, that the deeds of trust are not, according to my humble apprehension, to be construed merely with regard to the words that may happen to be contained in the deeds themselves, but must be construed and looked at as part and parcel of the whole machinery by which the great body of Wesleyan Methodists, amounting to, I believe, nearly a million of people, is kept together, and by which Methodism itself is carried on. I think I should take a very narrow view of the case, if I contented myself with merely looking at the words of the trust-deed, and not going further, and considering whether, from the very nature of the transaction and the matters connected with it, some circumstances extrinsic of the deed must not be taken into consideration. And I do this in pursuance of what I have understood to have been the law laid down by Lord Eldon, in a case which I have before had occasion to refer to,—I mean the suit between the tenants on the Duke of Bedford's estate and the British Museum. It was there contended by the plaintiffs that the persons who represented the British Museum were bound by the letter of the written and express covenants which were contained in the deed, whereby the property in question became severed from some ancestor of the Bedford family, upwards of 150 years before the question then before the Court arose. Although there was no doubt that the matters complained of fell within the strict meaning of the words of the covenant, yet Lord Eldon thought, that, in order to decide the question fairly,—in order to determine whether the Court should interfere,—he must regard not merely what was expressed in the deed, but the circumstances under which the deed was made, and what of necessity must have been the implied agreement and understanding between the parties, although not even one word of those matters appeared on the face of the instrument itself. Now in the case in which I am called upon to interfere, the late Rev. John Wesley, having instituted Methodism, and given rise to the society since denominated the Wesleyan Methodists, we find that in the year 1781, the first deed is made which relates to the chapel in question, the Oldham-street chapel, to which the Rev. Dr. Warren was appointed. This was a deed made during the life-time of Mr. Wesley; and it conveyed the tenements in question to certain Trustees, upon trust that they and the survivors of them, and their heirs and assigns, and the Trustees for the time being, should permit and suffer John Wesley, and such other persons as the said John Wesley should for that purpose from time to time nominate and appoint, in like manner, during his life, to have and enjoy the said premises respectively to the intent that he and they might therein preach, &c.: and after the decease of the said John Wesley, then upon further trust, that "the said Trustees, and the survivors of them, and the Trustees for the time being, should permit and suffer such person and persons, and for such time and times, as should be appointed at the yearly Conference of the people called Methodists, in London, Bristol, or Leeds, to have and enjoy the said premises for the purposes aforesaid." Then it goes on to enforce certain provisoes on the Preachers, with regard to the doctrines which such persons shall preach or expound, and then there is a particular proviso upon which a great deal of observation has been made at the bar, namely, that if any person so appointed to preach, shall, in the judgment of the major part of the Trustees for the time being, be deemed an unfit or improper person, and the Committee of Conference shall not appoint another in his stead within two months after a regular notice in writing, containing the reasons of the Trustees for his dismissal, then it shall be lawful for the Trustees to appoint such other person as they shall think fit, until the next Conference. Now this is a power plainly in the nature of an executing power. It is a power which is expressly given to the Trustees; but this deed does not contain any thing which puts in terms any obligation upon the Trustees, in case they thought the person improper, to permit him still to enjoy the chapel. I do not see anything in that deed of that nature, nor anything beyond what could be inferred

from the first part of the deed, which was generally creating the trust; but it strikes me, that if the Trustees should conceive, in fairly exercising their opinion of the individual, that in consequence of the act committed, it became necessary to interfere immediately, and prevent such person from preaching, then the deed gave them the further power to take the course prescribed by it. The course prescribed, in the first instance, was to give the Committee of the Conference a notice to appoint a substitute, and in case they did not exercise that power, then there was an express power given to the Trustees to appoint a substitute.

Next, we have the deed of 1826, (the Oldham-road deed,) which was made long after the death of Mr. Wesley, and subsequent to various rules and regulations made at different meetings of the Conference in the years 1791, 1792, 1793, 1794, 1795, and 1797, and which have been the subject of much observation. According to this deed, the Trustees are to permit the chapel to be used and enjoyed for the purposes of religious worship, for the service of Almighty God, by the society of people called Methodists, late in connexion with the Rev. John Wesley, and to that intent to permit and suffer such persons as should be appointed by the Conference, and no other person or persons whomsoever, except as after provided, to have the free and uninterrupted use of the chapel. Then there is a proviso, declaring that the moral character and ability of the persons so appointed shall be unexceptionable; and then it is stated, that they shall not preach any other doctrines than those of Mr. Wesley, defined in the same manner as is described in the other deed of the year 1781. Then it is provided, that in case the Trustees shall think any such Preacher to be immoral, deficient in abilities, erroneous in doctrine, or to have broken any of the rules contained in the Articles of Pacification, the Trustees for the time being shall proceed, according to certain regulations which those Articles prescribe. Now, it is observable, therefore, that this deed, in a general way, refers to the use of the chapel for the purposes of religious worship, and for the service of Almighty God, by the society of people called Methodists, and that is a circumstance which, I conceive, is not to be kept out of sight, or to be in any way forgotten, when we are commenting on the deeds, and on the duties of those persons who are to exercise the Trusteeship under the deeds. For I must consider, that it never was intended that this instrument was to be construed separate and apart, as if this chapel stood alone. I must consider that it never was intended by the parties who have continued to belong to the Methodist society in succession, since the time when it had its origin, that there should be any thing else but one general object pursued, unless indeed there might be any particular by-laws, or rules and regulations of a local kind; but that it was the object and intent of all parties concerned, to form one body, to be governed by one set of laws. Although it may be perfectly true, to a certain extent, that the persons appointed Trustees under the deed of 1781 might consider themselves called upon to execute their trust, with regard to a certain then existing set of laws, it appears to me, that if, in the progress of time, the persons who were Trustees for the time being, as successors to the first Trustees under the deed of 1781, received into their chapel a person appointed by the yearly Conference to preach, they must take that person into their chapel, and deal with him, not merely on what is the general expression of the obligations of the trust-deed, but according to all the rules from time to time enacted by the Conference, which, it is admitted, on all hands, has been the supreme legislative and executive body since the death of Mr. Wesley.

Now, whether or not a District Committee has the power of suspending a Preacher, appears to be a matter of some doubt; nor am I surprised at it, when I consider that the persons who drew up the various Minutes were not professional persons accustomed to prepare for all the exigencies likely to happen, but simple, straightforward, intelligent men, who had in view only the exigencies of the moment. During the life of Mr. Wesley, it appears that he had the sole power of appointing the Preachers, which, of necessity, on the face of the deed of 1781, included the power of removal; and the persons holding the office of Trustees were to receive into the chapel such person or persons as Mr. Wesley might from time to time appoint. This, of course, implied that the power of removing the Preacher was vested in Mr. Wesley. When, in consequence of Mr. Wesley's death, the power which he had possessed of trying, suspending, or expelling Preachers in the intervals of the Conference, necessarily ceased, that power vested in the Conference, as instituted by the deed of 1784. The Conference, at their first meeting after Mr. Wesley's death, in the year 1791, asked the question, "What regulations are necessary for the preservation of *our whole economy*, as the Rev. Mr. Wesley left it?"—and answered, "Let the three kingdoms be divided into Districts;" for

the management of which Districts the following Rules were then framed:— "The Assistant [afterwards called the Superintendent] of a Circuit shall have authority to summon the Preachers of his District, who are in full connexion, *on any critical case*, which, according to the best of his judgment, merits such an interference. And the said Preachers, or as many of them as can attend, shall assemble at the place and time appointed by the Assistant aforesaid, and shall form a Committee for the purpose of determining concerning the business on which they are called." There it ends: It is not said *what* they are to do. It is left to be inferred, that they are to exercise their judgment, and deal as well as they can with the case so brought before them. And then it goes on to say, that they shall choose a Chairman for the occasion, and that their decision shall be final until the meeting of the next Conference, when the Chairman of the Committee is to lay the Minutes of their proceedings before the Conference; "provided, nevertheless, that nothing shall be done by any Committee contrary to the resolutions of the Conference." Then it appears that in the year 1792, that resolution was altered by giving a power to the Chairman of the District, to be thenceforth annually appointed at each Conference, to call a meeting of the Committee of the District, on any application of the Preachers or people, which may appear to him to require it, but he was not permitted individually to interfere with any other Circuit except his own. It was further directed that whenever the Chairman received any complaint against a Preacher, either from the Preachers or the people, he should send an exact account of the complaint in writing, with the name of the accuser or accusers, to the party accused, before he called a meeting of the District Committee, to examine into the charge. There is nothing here to limit the power which is to be exercised by the District Committee thus summoned; but only a previous step required, namely, that, before the power is exercised, it is to be preceded by sending a copy of the charges, &c. In the 4th article of the rule of 1792, respecting Districts, which provides for the case in which the Chairman himself might be the person accused, there is a power given to the District Committee to try a Chairman, and, if he be found guilty, to inflict punishment, that is, "to *suspend* him from being a Travelling Preacher till the ensuing Conference, or to remove him from the office of Superintendent, or to depose him from the Chair, and to elect another in his place." It is reasonable to suppose that the Committee had the like power with respect to the Preachers generally, which was thus delegated even in reference to the Chairman. In the year 1793, there was a partial alteration in the mode prescribed to the Chairman of the District for trying Preachers accused of immorality. It was then enacted, that, instead of a meeting of all the Preachers of the District, the Chairman himself, with four other Preachers of that District, two of whom were to be chosen by the Preacher charged with immorality, and two by the party bringing the charge, should have the authority to try the case in a more private manner, and, if they found the accused guilty, to suspend him, should they judge it expedient, till the ensuing Conference. Now suppose that, antecedent to this period, the District Committee had, under the regulations formerly made, acquired any particular powers, I apprehend that those powers so acquired would remain just as large and extensive, except so far as the special provision made for their proceedings in the case of immorality might be considered as varying it.

Then there arose a dispute with respect to the administration of the sacrament of the Lord's supper, and it appears that, at the meeting of the Conference in 1794, the Conference state in their letter, that they had taken into their mature consideration the state of the societies, and set forth the various rules to which they had come, "for the sake of peace and love." By the 5th of these resolutions, "It is agreed that the management of the temporal and spiritual concerns of the body shall be separated, as far as the purposes of peace and harmony can be answered thereby, as they have ever been separated, in times of the greatest peace and harmony, viz., 1. The temporal concerns shall be managed by the Stewards chosen for that purpose, who shall keep books, wherein all moneys collected, received, or disbursed, on account of their respective societies, shall be entered. 2. The spiritual concerns shall be managed by the Preachers, who have *ever* appointed Leaders, chosen Stewards, and admitted members into, and expelled them from, the society, consulting their brethren the Stewards and Leaders." Well, this certainly seems to reserve to the ecclesiastical part of the body the fullest power over all spiritual concerns. And then there follows the 6th rule, which first provides a certain mode in which the Trustees, in conjunction with their Superintendent Preacher, shall choose their own Stewards, receive and disburse the seat-rents, &c.; all which obviously applies only to matters of a

temporal nature. Then it is provided, that "if any Preacher be accused of immorality, a meeting shall be called of all the Preachers, Trustees, Stewards, and Leaders of the Circuit; and if the charge be proved to the satisfaction of a majority of such meeting, the Chairman of the District shall remove the convicted Preacher from the Circuit, on the request of the majority of the meeting; nevertheless, an appeal to the Conference on either side shall remain." This appears to be a power which, as I understand it, never was given before to the lay portion of the community, to exercise a jurisdiction over the Preachers; and it is the first time, as far as I can collect, that the Trustees, Stewards, &c., were to interfere in order to compose a court. This was, however, not a power given generally, but only in the particular case in which a Preacher shall be accused of immorality.

Then we come to the Conference of 1795. That Conference agreed to certain Articles of Pacification, from which it is obvious that the thing mainly had in view was the subject of the dispute which had so long agitated the society, namely, the administration of the sacrament of the Lord's supper, baptism, and other matters, which were purely matters of ecclesiastical discipline or rite. Then concerning discipline, it is directed that the appointment of Preachers shall remain solely with the Conference, and that no Trustee or Trustees shall expel or exclude from their chapel any Preachers who have been appointed by that body. That certainly seems to allude to the circumstance, that, in consequence of disputes having arisen relative to the administration of the sacrament of the Lord's supper, the Trustees of Bristol had, in the preceding year, taken on themselves to suspend or remove some of the Preachers. There seems to be, in the first instance, a positive law against the interference of the Trustees at all. Then that is qualified by a 2d rule,—"Nevertheless, if the majority of the Trustees, or the majority of the Stewards and Leaders of any society, believe that any Preacher appointed for their Circuit is immoral, erroneous in doctrine, deficient in abilities, or that he has broken any of the rules above mentioned,—they shall have authority to summon the Preachers of the District, and all the Trustees, Stewards, and Leaders of the Circuit, to meet in their chapel on a day and hour appointed; sufficient time being given. The Chairman of the District shall be President of the assembly; and every Preacher, Trustee, Steward, and Leader shall have a single vote, the Chairman possessing also the casting voice. And if the majority of the meeting judge that the accused Preacher is immoral, erroneous in doctrine, deficient in abilities, or has broken any of the rules above mentioned, he shall be considered as removed from the Circuit." Then it goes on to say, "That the District Committee shall, as soon as possible, appoint another Preacher for that Circuit, instead of the Preacher so removed, and shall determine among themselves how the removed Preacher shall be disposed of till the Conference; and shall have authority to suspend the said Preacher from all public duties till the Conference, if they judge proper." And then there follows that 5th regulation on which so much stress has been laid, "That no Preacher shall be suspended or removed from his Circuit, except he have the privilege of the trial before mentioned." Now, it has been made a subject of contest at the bar, whether this 5th rule is to be taken as a general rule, applying to all cases whatever, or whether it is not, and ought not to be taken as a rule applying to those cases only, which are enumerated in the document where this passage is found,—that is, the *four cases* of immorality, heterodoxy, deficient abilities, or breach of any of the preceding Rules of Pacification. It appears it was only in these four cases that the jurisdiction of the lay portion of the society was determined by the Conference to be fit to be administered at all, in regard to the Preachers; and the very article in which they recognise the limited exercise, in certain cases, of the lay power over the ecclesiastical, is itself coupled with an admission of the existence and operation of the District Committee,—and it appears to me, that you cannot properly construe these words, "except he have the privilege of the trial before mentioned," but by referring to the four cases; for it is only in these four cases that this particular trial can take place. The effect of giving it a general construction would be this, that although the Conference have expressly pointed out the mode of trial which may be pursued in these four cases, they must be understood to mean, that no other mode of trial is to take place in any other case, save and except the one here prescribed. Now, however unacquainted with, or uninstructed in, legal matters, these gentlemen may have been, I cannot conceive that they would so completely have blundered, as, at the end of these rules, to give, by implication as it were, a general power to the new tribunal of laity and clergy, whereas that power is, in the very outset, restricted to four enumerated cases. This would have been

a method of construction quite inconsistent with the ordinary use of the English language, by any persons who might be supposed to be reasonably competent to understand the subject on which they were employed. A book, marked with the letter F., has been produced as an exhibit in this cause. [His Honour here referred to a collection of rules, which the Conference of 1797 had individually subscribed, and which was published by their order in that year; having in its title-page the express designation of "The Form of Discipline."] This code confirmed, he said, the view he had taken, namely, that the Articles of Pacification, in 1795, did not supersede the District Committees composed of Preachers only; for it contained the original laws of 1791 and of other succeeding years, respecting the power and jurisdiction of the District Committees; and by thus reprinting them, the Conference substantially recognised and re-enacted those laws. He noticed also, and commented on some additions and alterations made in the phraseology of these laws, which further confirmed his view. A rule of 1793 had appointed a certain mode of arbitration, in the case of differences between Preachers; but to this same rule, when revised in the collection of 1797, there is appended a new clause, stating that if the matter cannot be decided by the arbitrators to the satisfaction of the parties, then it is to be referred to a meeting of the District Committee. By this regulation, the District Committee is made a court of appeal from a court which has done only this; namely, has not decided the matter to the satisfaction of the parties concerned. In this case, a power is expressly given to the District Committee to interfere as a supreme court; of course, the District Committees could not have been superseded by the Rules of Pacification in 1795. [Still quoting from, and remarking on, the same book, containing the revised "Form of Discipline," his Honour proceeded as follows:]—Then I observe there is this article in page 42, "In order to render our Districts more effective, the President of the Conference shall have power, when applied to, to supply a Circuit with Preachers, if any shall die or desist from travelling, and to sanction any change of Preachers which it may be necessary to make in the intervals of the Conference, and to assist at any District Meeting if applied to for that purpose by the Chairman of the District, or by a majority of the Superintendents in such District; and he shall have a right, if written to by any who are concerned, to visit any Circuit, and to inquire into their affairs with respect to Methodism, and, in union with the District Committee, to redress any grievance. 2. The Chairman of each District, in conjunction with his brethren of the Committee, *shall be responsible to the Conference for the execution of the laws*, as far as his District is concerned." Now, that appears to me to be remarkable, because it is an express recognition of the authority of the District Committee, giving it, as I understand, in certain cases, a power to act, unlimited in point of extent, with the assistance and co-operation of certain other individuals. In the same year, 1797, there is a circular letter from the Conference, stating, that they think it their duty to inform the general body of Methodists, that certain rules and regulations have been adopted, which they (the Conference) trust will have the effect of promoting the harmony and unanimity of the whole body. They then set forth the rules and regulations respecting certain temporal matters, and then they state,—"We have selected all our ancient rules, which were made before the death of our late venerable Father in the Gospel, the Rev. Mr. Wesley, which are essential rules, or prudential at this present time; and have solemnly signed them, declaring our approbation of them." This seems to be a reiteration of a former letter, inserted in page 360 of the Minutes, vol. i.; and then they say, in page 378, "In short, brethren, out of our great love for peace and union, and our great desire to satisfy your minds, we have given up to you by far the greatest part of the Superintendents' authority; and if we consider that the Quarterly Meetings are the sources from whence all temporal regulations, during the intervals of the Conference, must now originally spring; and also, that the Committee formed according to the Plan of Pacification can, in every instance in which the Trustees, Leaders, and Stewards, choose to interfere respecting the gifts, doctrines, or moral character of Preachers, supersede, in a great measure, the regular District Committees; we may, taking all these things into our view, truly say, that such have been the sacrifices we have made, that our District Committees themselves have hardly any authority remaining, but a bare negative in general, and the appointment of a representative to assist in drawing up the rough draught of the stations." Now it does not appear to me, when they state, by way of reference, the very cases in which alone they have given the Trustees, Leaders, and Stewards, power to interfere, that they can be considered, by the subsequent

words, as positively taking away all the authority which, up to the time of the Conference meeting in 1797, the District Committee had exercised, or might have exercised, in cases other than those four cases in which the lay portion of the body were now allowed to interfere, in respect to the Preachers. They have stated it in a loose and general way, for the purpose of making it appear to those who read the letter, that the District Committees were not now possessed of such extensive or unlimited authority as formerly. The words used clearly show, that they were still in existence, though their functions were diminished, by the exemption of merely temporal affairs, "in a great degree," from the operation of their sole authority. As to ecclesiastical affairs, there are found in the Minutes of the very same year, "Sundry Miscellaneous Regulations," which prove that the Conference did not intend to set aside the District Committees' jurisdiction in spiritual matters. Instead of this they made these additional regulations, with the express and avowed purpose of rendering those District Committees "more effective," for managing, in the intervals of the Conference, the spiritual and ecclesiastical concerns of the body. With this view, they give to the President various important powers and authorities, which have been before read, and which, as I understand them, are an express increase of the President's power, in opposition to a regulation made in the year 1792, which prescribed that the President's power should cease and determine at the period of the Conference breaking up. So that, so far from there being any intention, on the part of the Conference, that the District Committee should cease to act, this rule expressly annuls the resolution of 1792, and gives increased power to the President, in order that there may be an increased force and authority given to the proceedings of the District Committee.

Reference has been made to a Resolution of the Conference in 1829; and I observe that in the passage which Sir C. Wetherell referred to, the Conference, in answer to a question, "What is the judgment of the Conference in reference to the general discipline and government of the Connexion?" say, "Certain novel interpretations of the *laws and usages* of the body having been recently circulated in different publications, obviously tending to produce faction, and calculated to disturb the peace of our societies, the Conference, whilst it thankfully acknowledges the almost total failure of these attempts, and the settled and peaceful state of the Connexion at large, and of the great majority of the people, even in those few Circuits where such efforts have been chiefly made, unanimously resolves and declares that it will continue to maintain and uphold the Articles of Pacification, adopted in the year 1795, and the regulations which are arranged under various heads in the Address of the Conference, dated Leeds, 1797, with the 'Miscellaneous Regulations which follow them, *as hitherto acted upon in the general practice of the body, and explained and confirmed by the decisions of the Conference*, recorded in its Minutes of the last year, on the dissensions at Leeds; rules which, taken together, equally secure the privileges of our people, and the due exercise of the pastoral duties of Ministers; and which the Conference regards as forming the only basis of our fellowship as a distinct religious society, and the only ground on which our communion with each other can be continued." Here it is to be observed, that the *usages* of the body are expressly recognised, in connexion with their laws. And on examining those Resolutions on the Leeds case, to which reference is made in 1829, as recorded at length in the Minutes of 1828, I find Resolutions to the following effect: After eulogizing certain eminent persons who, in reference to the Leeds disputes, had, under very trying circumstances, acted very much to the satisfaction of their brethren, the Conference especially mentions the support which had been given by their friends to the "the rules and *usages* of the Connexion." So we find that, in this authorized document also, usages are again expressly noticed, in connexion with the laws of the body. Therefore I must say, that it does appear to me, moderately instructed as of course I must be on all matters regarding this great and important body,—that the Conference, which must be considered as the supreme governing body of the society, does, over and over again, take notice of the powers exercised, not only through the medium of what are called laws, but through the medium of what are termed *usages*.

The numerous affidavits which have been filed leave no room to doubt that District Committees have interfered in cases similar to the present; that is to say, in instances which were not cases of immorality, or any of the other three charges in the investigation of which the laity were allowed to interfere, but also in cases independent of them. And then I must say, that it does appear to me, that if there was a case so constituted, as not to fall within one of the four cases especially provided for by the Articles of Pacification, that the District Committee would,

in my view of the law,—and still more of the usages,—have a right to interfere. Then the question comes to this: Whether there did exist in the present instance a case in which the District Committee, in the discharge of its proper functions, ought to interfere? If I understand the affidavits correctly, supposing there were a case made out which justified the interference of the District Committee, then there has not been any departure from the rules and regulations, and every thing has been done which would make the proceeding of the District Committee, simply considered as a proceeding, perfectly fair and lawful. There was a complaint made by a particular individual, that complaint is reduced into writing, and sent to the party accused. The President of the Conference is sent for, and the persons competent to form a District Committee assemble with him. It really appears to me, that although the Court has a jurisdiction over trusts, it cannot exercise any jurisdiction in the nature of an appellant jurisdiction, over a local court of a voluntary society, who have agreed that certain affairs shall be managed in a certain manner by that local court; and I cannot say that all the District Committee have done is a nullity, even if I were to think differently from that court, over which I have no jurisdiction. But I must say, that I cannot think the proceedings of this District Committee are justly subject to the vehement charges that I have heard made against it. I do not myself think, that the accusations of tyranny, and violence, and malevolence, and so on, have been substantially made out. I admit, that if there had been any thing in the shape of a legal fraud charged, this is a case which, on general principles of law, we might have been able to understand; but I do not discover any such allegation, and of course we must take it that none exists. It does not appear to me that there has been any thing like a fraud, or any of that unwarrantable tyranny, or disregard of the principles of justice and humanity, which might, in a very gross case, authorize me to say, "The whole thing is a farce, the whole matter has passed in a violent gust of passion and prejudice, and cannot be sanctioned by the Court." Now, I do not think that has been the case.

It is to be observed, that the matter which attracted the notice of the parties now opposed to Dr. Warren, is one about which there is no doubt. It was the publication of a certain speech, which I now hold in my hand; and it strikes me, that that is not immaterial to be taken into consideration, when it is made part of the complaint against the proceedings of the District Committee, that they excluded the witness of Dr. Warren from the room. One is almost tempted to exclaim, in the language of a tribunal which certainly was very much prejudiced, "What need have we of any further witness?"—because the District Committee had the publication before them, of which Dr. Warren never attempted to deny he was the author. I am extremely unwilling to make any observation on a person whom, had he belonged to the established Church, I should have been almost justified in considering in the light of a father; and whom, belonging to the persuasion that he does, I must still reverence and respect, on account of the very high character which he has always so deservedly borne; but, called on to exercise the functions of a Judge, I must speak without respect to persons, and I must say that this document, this speech of Dr. Warren, appears to me to contain passages, which, I do think, whenever a cooler moment arrives, and Dr. Warren shall be able to reflect calmly and seriously on what it contains, he will be seriously sorry that he has committed to paper. In the first place, we must consider the peculiar objects of the Methodist society. The sole and principal object of the late John Wesley, as it appears from the Minutes of Conference, was "to spread scriptural holiness over the land;" and, by means of a society voluntarily attached to himself, to set forth such an example of unblemished holiness and humility, as could only emanate from the purest principles of the Christian religion. In proof of this, I find that so early as 1744, the question was proposed in Conference, "Do not Sabbath-breaking, dram-drinking, *evil-speaking*, &c., prevail in several places? What method can we take to remove these evils?" In the same year, the Preachers are expressly called upon as follows:—"Speak evil of no one; else *your* word especially would eat as doth a canker." In the Minutes of the Conference for 1792, is this direction: Question 27. "Expressions have been used by some, through a false zeal for their own peculiar sentiments, which were very unjustifiable. How shall we prevent this in future?—A. No person is to call another heretic, bigot, or by any other disrespectful name, on any account, for a difference of sentiment." In the Minutes of 1796, it is said, "Be tender of the character of every brother. If accused by any one, remember, recrimination is no acquittance; therefore avoid it. Be quite easy if a

majority decide against you." But, independent of any such suggestions or exhortations, every Preacher of the Wesleyan-Methodist society, and indeed every person in the Connexion, must be fully aware, that among the class of individuals who, as an Apostle has declared, shall be excluded from the kingdom of heaven, the *reviler* is expressly mentioned. It appears that Dr. Warren considered himself justified in publishing a pamphlet in opposition to the Wesleyan Theological Institution; and he commences by using these words: "I think it my duty to give the body generally an opportunity of examining the validity of the grounds on which I opposed this measure; to record my protest against it; and, at the same time, to set myself right with those who may have received impressions *artfully* circulated to my disadvantage, for the purpose of prejudicing my cause, and rendering my statements unavailing." He then proceeds to describe what took place towards the conclusion of the meeting of Conference, and, speaking of the Rev. Robert Newton, he says, "That individual, with an affected air of frankness, volunteered the following communication to me." Now every body must see what is implied by the word "affected;" and I think such a phrase, applied to a gentleman of Mr. Newton's respectability, is very unseemly, and not what one would have expected from Dr. Warren. Again: Dr. Warren speaks of "the silly calumny communicated to me by the credulous Secretary;" and, in page 9, there is the following passage:—"It was on this occasion that Mr. Bunting first presumed, amidst the surprised silence of the Committee, to insinuate that I was under the influence of some mean, some unhallowed motive, in dissenting from my brethren; adding, in a tone and manner peculiarly his own, that my opposition was the most unprincipled that he ever knew,—subjoining, after a pause, 'and I speak advisedly.'" To use that expression concerning Mr. Bunting,—"in a tone and manner peculiarly his own,"—was most indecent. And then there are several other passages of a similar description, which it is unnecessary for me to refer to. Now I quite agree with Sir Charles Wetherell, that, as between private individuals writing in reviews or public newspapers, such expressions as these would go for nothing; but I am to consider that this gentleman, from his position and connexion with the Wesleyan body, was bound to hold out himself to be a person, who, however severe and unmerited might have been the reproach and provocation he had received, ought to have exhibited a calm and dignified demeanour, and not have allowed himself to make any recrimination, especially one of a bitter and insulting kind, to any human being whatever. There is one other expression that much struck me, among the remarks in one of Dr. Warren's pamphlets, which I do think Dr. Warren must be very sorry that he allowed himself to use. Speaking of the Rev. Joseph Taylor, the President of the Conference, he takes occasion to compare him to Judge Jeffreys, whom he has represented, in the language applied to an unhappy individual in the New Testament, as having "gone to his own place." The reason why that paragraph struck me so particularly was this: I lately had an opportunity of looking at that invaluable and excellent work (for such I shall always consider it) of the late Dr. Adam Clarke, in which he has shown such a singular exuberance of Christian charity and love, in the observations which he makes in respect to Judas Iscariot, of whom the expression was used that has been applied to Judge Jeffreys; but while I admire the charity of the amiable and learned Commentator, I cannot adopt his conclusion. I cannot but think that, however competent it may be to an inspired Apostle, to decide on the final destiny of an individual, it ill becomes poor short-sighted fallible mortals to pronounce so decidedly on the awful fate of one of their brethren; and I cannot but hope, that Dr. Warren will, ere long, deeply regret that he inserted this passage in his pamphlet, wherein he has ventured to represent a notorious individual as 'incurring the fate of Judas, and has then compared him to an excellent and worthy individual, who, I doubt not, for his many virtues has been raised to the distinguished situation that he now fills in this society. My opinion is, considering the situation in which Dr. Warren stood as a member of the Conference, and as Superintendent of a Circuit, collecting, as I think I have collected, from some of the documents, that it is considered an improper thing to make a statement of what passes at Conference beyond what is authorized by the Conference itself; and, considering that no human being could read Dr. Warren's speech without being prejudiced against some of the most eminent persons connected with the Methodist society,—my opinion is, that the publication of this speech would go a great way to create that very schism in the Methodist society, which, if it is not put an end to, will infallibly destroy the society itself.

Looking at all these circumstances, it does

appear to me, that these gentlemen, forming the District Committee, had such a case brought before them as they might fairly recognise; and that it was their duty to entertain the question, as to how they should deal with Dr. Warren. There has been much special-pleading upon the refusal to allow Mr. Bromley to remain in the Committee. I do not see what necessity there was for a witness. It might possibly have been better to let Mr. Bromley stay; but I do not think it is of any importance. That seems to me to be a matter quite beside the question. The case comes to this: A competent tribunal did, on a case which fairly called for their interference, exercise a judgment, and suspend Dr. Warren. This being the case, I am now called upon to say, that it is clear that all has been wrong:—I am to say to the Trustees, "Every act done by the District Committee is to go for nothing, and you are to look upon Dr. Warren in the same manner as if no one of the transactions detailed had ever taken place." Before the Court interferes in carrying into execution any particular trust, the Court must be pretty well assured, that there has been such a breach of the trust committed as will justify its interference. I must say, that, in every point of view, as I understand the question, however other tribunals may differ from me, yet, in my opinion, there has not been such a case made out as will justify me in interfering on the present occasion. I have myself been very much interested in the discussion, and I feel the very great importance of the decision to all parties concerned. I hope, if I have said any thing which could, in the least degree, trespass on the feelings of Dr. Warren, that he will forgive me, and think that nothing but a sense of the duty I owe to the public, in the discharge of my judicial functions, has caused me to make the observations that I have made on his pamphlet. I am heartily sorry for the necessity that caused me thus to speak. Had the pamphlet emanated from an ordinary individual, I should have passed over it in silence; but, coming from a man of his rank and character in the Methodist society, I cannot help contrasting the expressions used by Dr. Warren with that pure and elevated standard at which he ought to have aimed. The Conference will put an end to this dispute in the course of a short time. All I can say is, that it does not appear to me at present, that, as a Judge, I ought to interfere.

I cannot better conclude than by addressing the body of the Wesleyan Methodists in the very words used by the members of their own Conference, in the year 1795: "Brethren, be as zealous for peace and unity in your respective societies, as your Preachers have been in this blessed Conference. Let the majorities and minorities, on both sides, exercise the utmost forbearance towards each other;—let them mutually concede the one to the other, as far as possible; and, by thus bearing each other's burdens, fulfil the law of Christ. Let all resentment be buried in eternal oblivion; and let contention and strife be for ever banished from the borders of our Israel."

Injunction refused.

Being disatisfied with this decision of his Honour the Vice-Chancellor, Dr. Warren and his friends removed the cause into the Court of Chancery, where it was argued by the same Counsel, before the Lord Chancellor Lyndhurst, on Wednesday, March 18th, and the three following days. The Court, during the whole of this time, was crowded to excess; and the deepest interest in the entire proceeding was manifested, both by persons belonging to the Methodist body, and Christians of other denominations. After hearing the case, his Lordship stated that there were some points on which he wished to read the affidavits; and that he would deliver his judgment on the morning of Wednesday, March 25th. On the day appointed the Court was crowded, even beyond former example; and soon after ten o'clock his Lordship entered, and gave, with admirable clearness and precision, the following judgment. It occupied about an hour in the delivery; embraced all the questions which had been argued by Counsel; and was listened to with the most fixed and breathless attention. While his Lordship was speaking, tears of grateful joy glistened

in the eyes of many persons, who seemed to regard him, in his official character, as "the Minister of God for good;" and an instrument employed by divine Providence, for the preservation of that holy discipline which has been one principal means of the success of Methodism, and which lawless and misguided men were attempting to subvert. The behaviour of the crowd upon this occasion was most exemplary. Though the feelings of many were deep, every expression of emotion was repressed; and the decision was received with that perfect silence which is so becoming when justice is administered.

His Lordship said: In this case I entirely agree with the observations made by his Honour the Vice-Chancellor, in the commencement of his judgment, which has been handed up to me, that this cannot justly be considered as a case of trifling importance. It is a case of some importance, even in a pecuniary point of view, to Dr. Warren: not with reference to his actual position, but as it may affect his future position and interest as connected with this society. But independently of that, every question that comes into a Court of Justice, affecting the feelings of great masses of people, particularly where they are associated together for objects of religion, can never be considered as of trifling importance.

I have looked with considerable attention into the volumes which have been handed up to me, containing the Minutes of the proceedings of the society. They breathe a spirit of meekness and of Christian feeling throughout; and I trust I may be permitted to express my regret that, in a society so constituted, for such objects, with such motives, and with such feelings, dissensions of this description should have been introduced; and I must suggest whether it would not be advisable to make some endeavour for the interests of this society, by some attempt towards accommodation, to put an end to those dissensions which have given rise to the present proceedings.

However, having made these observations, the only duty which I have to discharge, is a duty of a widely different nature. I am called upon merely to determine as to the legal rights of these parties. I am to decide the question, (for that is the main question,) as to whether or not Dr. Warren has been legally suspended from his functions, as a Minister, by the District Committee. To this point, therefore, I shall direct my sole attention, not introducing any observations with respect to the conduct of the different parties, except what the course of proceedings shall strictly and of necessity require.

First, then, the question resolves itself into two points:—Has the District Committee power to suspend a Preacher? And, if the District Committee have the power so to suspend, the next question will be, Have they regularly exercised that power in the present instance?

The first document that was referred to by the Counsel on both sides, and naturally referred to, was the trust-deed, or I should rather say, the trust-deeds under, which these chapels are held. By the provisions in two trust-deeds, the Trustees hold the chapels subject to the trust, to permit the Preacher who is appointed by the Conference to use the chapels for the purpose of religious worship. It is said, that Dr. Warren was the Preacher appointed by the Conference; that they were bound, therefore, to allow him to use the chapels; and that they had no right to permit them to be used by any other person or persons. But I apprehend, that if the Conference, which is the legislative body of this society, —if the Conference have appointed a mode by which a Preacher may be suspended, or removed accordingly, and he is regularly and legally suspended or removed, he can no longer be considered, within the meaning of this trust, as the Minister appointed by the Conference. Therefore it appears to me, that that argument, considering the nature and object of the trust-deed, entirely fails.

Another clause in the trust-deed is of this description: There is a proviso, that the Trustees shall proceed according to the Act of Pacification, where it shall appear to them that any Preacher has offended in the manner therein described. It does not appear to me, however, notwithstanding this proviso, that it leads, necessarily, or even naturally, to the conclusion that a Preacher may not be removed by other modes pointed out by the society. No such consequence, as it appears to me, legitimately flows from that provision. These are the arguments arising out of the trust-deeds. The trust-deeds, however, were not much relied upon, in argument, by the Counsel on either side. I have no doubt they saw the arguments by which they might be met; and therefore not much reliance seems to have been placed upon them.

This, then, brings me to the consideration of the arguments arising out of the acts of the Conference. It is by the acts of the Conference, principally, that this question must be decided; and what, taking all those acts together, is the legitimate and proper construction of them, with reference to the point now under consideration? There is no doubt that Mr. Wesley himself possessed and exercised the power of suspension and of removal. During his time, he possessed so much influence, and so much just authority, with the society which he had himself established, that much was left to his discretion, and very few laws and regulations were necessary for the purpose of preserving the harmony of this society, and of supporting the Connexion. However, when he died, in the year 1791, that which had been foreseen took place. It became then necessary to lay down more precise laws, for the

purpose of regulating the Connexion in future; and it is to the law passed in the year 1791, that I must first direct my attention; because it appears to me, that, upon the just construction of that law, much of the present case necessarily depends.

In the year 1791, then, after the death of Mr. Wesley, for the first time, Districts throughout the kingdom were established; and a provision was made to this effect, that the Assistant of the Circuit shall have the power of convening together the Preachers of the District, upon "any critical case which might occur;" that they should have the power of appointing a Chairman, when so met; that their decision upon the matter before them should be final, until the next Conference; that the Chairman should report the proceedings to the Conference; who, upon that report, should act as the Conference should think proper and just. That is the first law, to which I think it necessary attention should be directed.

Nothing is said with respect to offences committed by Preachers,—nothing is said as to the trial of Preachers; but still, taking the language, and the spirit, and the scope of this law, and the nature of the society, can it for a moment be doubted, that, if a Preacher had so conducted himself,—I am not now alluding at all to the case of Dr. Warren,—but, had a Preacher so conducted himself, as to introduce discord, and to disturb the harmony of a society like this, and endanger the Connexion, that that would not be considered as a critical case, justifying the Assistant in calling the meeting of the Preachers? If so, and they had the power to decide, and their decision was to be final till the next Conference, is it not quite obvious, that it might, in many instances, be necessary, under such circumstances, for the purpose of preserving the very existence of such a society, that the meeting should have the power of suspending or removing the Preacher, subject always to the ratification or opinion of the Conference?

It appears to me, therefore, notwithstanding the generality of these terms, it embraces the very case in question; and that, if the law had stopped here, and no other act had been passed, still, under this act of Conference, in the year 1791, any Preacher who misconducted himself to such an extent, as to disturb the peace and harmony of the society, would justify the Assistant in calling a meeting, and when the meeting assembled, they would be justified, if they thought the case one of such description as to endanger the peace and harmony of the society, to suspend or remove him till the next Conference. I consider this, therefore, as the basis of the law with respect to this subject.

In the year 1792 some alteration was made in this law; but not an alteration of any material consequence. As the law stood in the year 1791, the Chairman was to be appointed *pro hac vice*, by the District Committee, when assembled. An alteration in this respect was made, and a permanent Chairman was directed to be appointed immediately after the Conference, who was to hold his situation till the next Conference. By the law of 1791 the meeting was to be convened by the Assistant: by the law of 1792, the meeting was to be convened by the Chairman. Nothing was said in the law of 1791, as to the trial of Preachers; but in the law of 1792, something is said as to the trial of Preachers; not giving express authority to try Preachers, but assuming, as it were, that they had that authority, and pointing out some regulations with respect to the manner in which that authority should be exercised. One of those regulations was, and a very just and proper one, that an exact copy of the charges should be handed to the Preacher, in order that he might prepare for his defence, when the meeting should be convened for the purpose of deciding on his case.

But there is another part of this law, to which it is necessary I should advert, for an object to which I shall by-and-by direct my attention. The Chairman was to call the meeting: He might be the culprit,—he might be the party accused,—and therefore the Superintendent, if there was any accusation against the Chairman, was, in that case, directed to convene the meeting; and if the majority of the meeting were of opinion the case was made out against the party accused,—the Chairman being described to be a Travelling Preacher,—in that case the District Committee had the power to suspend him. It has been reasoned, and very properly reasoned, that it would be extraordinary there should be a power given to suspend the Chairman, and not power given to suspend any other Preacher; and it is almost impossible that one could be led to that conclusion. But I have already said, that, under the general law, I understand there would be a power to suspend; and this is a confirmation of the opinion I have expressed on the construction of the general law.

There, therefore, the matter continued, till the end of the year 1792. In the year 1793 there is a provision of a different description, referring to a particular charge against Preachers. If a Preacher is charged with immorality, in that case, provision is made to try him by a species of domestic tribunal: two persons are to be appointed by the Preacher; two by the accuser; those four persons, with the Chairman, are to assemble; and they are to decide on his guilt or innocence of the offence which is imputed to him.

I find, by the rules of the year 1797, to which I refer now incidentally for this purpose, that it was not considered at that time that the decision of the tribunal was to be binding upon the Preacher; for he might, if he thought proper, instead of submitting to the decision of this tribunal, insist on being tried by the District Committee.

This brings me down to the year 1793. In the year 1794 there was a different regulation made, as to the trial of Preachers who were accused of immorality. In that case, the Leaders, the Stewards, the Trustees, and the Preachers of the Circuit are to be assembled, and they are to decide upon his guilt or his innocence; and if a majority decide against him, in that case, the Chairman of the District is to remove him. I do not think it necessary to dwell upon this par-

ticular law, because when I come to look at the law of 1795, the regulations are so much at variance with the law of 1794, that I consider the law of 1795 was intended to be substituted in lieu of that of 1794; and I am confirmed in that conclusion, when I find, that in the Code of Rules which was published in the year 1797, this law is altogether omitted; and, although I do not know where to find it at the present moment, in consequence of the mass of affidavits before me, I have a strong impression on my mind that, in the affidavits, it is mentioned that it was considered as being abrogated, and as being no longer in force.

Now, this has brought me down to the Act of Pacification. How, then, did the law stand, at the commencement of the year 1795? I think it is impossible to doubt for a moment, after the history which I have given of the progress of these laws, that, in the early part of the year 1795, and before the Act of Pacification was passed, the District Committee had the power to try; and, as the result of that power to try, to remove and to suspend, any Travelling Preacher; to remove and to suspend him only till the next Conference. I think that deduction is clear, and absolutely certain and decisive.

If that be so, then the question that remains to be considered is this,—has any alteration been made in this law, in this power, by the Act of Pacification; and, if so, what is the extent and nature of that alteration? The Act of Pacification was an act which appears to have been very much considered. Disputes had taken place in this society, principally founded on the administration of the sacrament; and for the purpose of terminating all those disputes, this Act of Pacification was agreed to by the Conference. Now, it is unnecessary that I should say any thing as to the first part of the Act of Pacification, which relates to the administration of the sacraments. I come, therefore, to the second title,—the title *Discipline*. Now, what does that provide, and what is the law? It begins by saying, that no Trustee shall expel or remove any Preacher from the chapel. However, it says, that if the majority of the Trustees, or the majority of the Leaders and Stewards of the society, have reason to think that any Preacher has been guilty of the offence therein mentioned, namely, of immorality, or of erroneousness in doctrine, or of a violation of the rules therein before specified, with reference to the administration of the sacrament, or that he is deficient in talents, in abilities, that, under such circumstances,—not that they are compelled,—not that they are bound—that they shall have authority, to convene a particular species of tribunal,—a mixed tribunal. That tribunal is to consist of the Preachers of the District, of the Trustees, of the Leaders, and of the Stewards; they are to consider the case as alleged against the party accused; and, if a majority of them are of opinion that the case is made out against him, then he is *to be considered as removed*,—as removed from that Circuit. It is then provided, that the District Committee shall fill up the vacancy so occasioned by the removal of the Preacher from that Circuit, only until the next Conference,—that the District Committee shall fill up the vacancy. And then it goes on further to provide, that the District Committee may, if they think proper, proceeding upon this act of the majority, suspend him from all duties until the next Conference.

This is the first part of the Articles of Pacification, as far as relates to discipline; and if it rested here, it appears to me there would be no ambiguity in the case. This is not at all at variance with the previous provisions. It does not take away the power of the District Committee; it only says, that in the case of certain delinquencies, or want of ability, certain persons have the power, if they think proper to exercise it, to call together a particular tribunal,—a mixed tribunal,—to consider the case. It does not interfere with the right of the District Committee, in all cases in which those particular parties having this particular authority do not choose to interfere, or in cases in which they have no authority to interfere. Therefore, if the case rested here, it appears to me there would be no doubt in the question.

But then the doubt which is brought into the question is occasioned by particular words contained in the fifth division of this Act. The terms, as far as I recollect them, in that fifth division, are these,—"That no Preacher shall be removed from his Circuit, or suspended by any District Committee, except he have the privilege of the trial before mentioned." Now these words, taken by themselves, are extremely large and general; and, I confess, I have felt some difficulty in dealing with them. Do they apply to the taking away all authority of suspending and removal from the District Committee? If they do, how can we apply to such a case all the terms that are contained in this fifth clause? No District Committee shall have the power of suspending or removing from the Circuit, except the party have the privilege of the trial before mentioned. But no District Committee has the power of giving the Preacher the benefit of the trial before mentioned. There is no authority for that purpose. They have no power to convene this mixed tribunal. There are no regulations authorizing them to do so; and if it was meant that the District Committee should have had such a power, there is no doubt, I apprehend, it would have been distinctly provided for. It does not appear to me, therefore, that this applies to the general authority of the District Committee. But does it apply, and has it reference, solely to the powers given in the second head of this Article of Pacification? There is a difficulty even in construing it strictly with reference to this second head. If the word "*suspend*" only had been used, it would have been free from ambiguity. "No Preacher shall be suspended by the District Committee except he shall have the privilege of the trial before mentioned," might have had reference to what had gone before, because they had, in terms, the power to suspend the Preacher in consequence of the decision of the mixed tribunal; but then it goes on to say, "No District Committee shall have the power of *removing* from the *Circuit* the Preacher, unless he has the benefit of the trial before mentioned." But the District Committee is not the body that removes him; he is removed, not by the District Committee, but the act of the majority. But then it

is impossible not to take notice of the turn of expression here used,—" He shall be *considered as removed.*" It does not say he is actually, and in fact, removed, but then he shall be *considered* as removed. And then that is followed up immediately by saying, the District Committee should appoint his successor. It would seem, therefore, as if it was considered, that the act of the District Committee was necessary to consummate, as it were, the act of removal. Giving it that interpretation, and supposing that to be the intention of the parties who were engaged in framing this law, then the whole is consistent; and it amounts to nothing more than this, that the District Committee shall not give effect to the proceedings herein-before-mentioned, against any Preacher, unless he has had the privilege of the trial which is above-mentioned,—that is, provided for him.

I do not mean to say, there is not some difficulty in this case; but, as I said during the argument, and as I have felt throughout, there are difficulties both ways. The construction is doubtful; and if the construction be doubtful, then let us advert to the circumstances which have taken place since the law was passed. What took place in the year 1797? The question to be considered, it is always to be recollected, is this,—Was the authority of the District Committee to suspend, and to remove from the Circuit, taken away by the Act of Pacification? Bear that always in mind, and see what has taken place.

In the year 1797, two years afterwards, another act of Conference was publlshed; and in that act of Conference there is this provision. By that act of Conference, the District Committee has, with respect to different items, with respect to different acts, only a negative power. Much of the authority of the District Committee was taken away; and then it goes on thus: " In short, brethren, out of our great love for peace and union, and our great desire to satisfy your minds, we have given up to you by far the greatest part of the Superintendent's authority; and if we consider that the Quarterly Meetings are the sources from whence all temporal regulations, during the intervals of the Conference, must now originally spring; and also that the Committee formed according to the Plan of Pacification, can, in every instance in which the Trustees, Leaders, and Stewards, choose—*choose* " to interfere"—*choose to interfere*—" respecting the gifts, doctrines, or moral character of Preachers, supersede in a great measure the regular District Committee; we may, taking all these things into our view, truly say, that such have been the sacrifices we have made, that our District Committees themselves have hardly any authority remaining, but a bare negative in general, and the appointment of a Representative to assist in drawing up the rough draught of the stations of the Preachers." The authority, therefore, of the District Committee was superseded,—when? Not absolutely, but only in those cases in which the Trustees, Leaders, and Stewards *choose* to interfere, respecting particular objects, namely, the gifts, doctrines, or the moral character of the Preachers. It appears to me, therefore, impossible to consider, taking this article of 1797 in connexion with the article of 1795, that the Articles of Pacification were meant to have the effect which is contended for on the part of the plaintiff.

But the case does not at all rest here: the case is much stronger. In the year 1797 it was considered by the Conference, who are the legislative body, that it was of importance to the Connexion, both for the purpose of promoting harmony, and for the purpose of pointing out the line of duty which individuals should pursue,—that it was of importance to publish the existing rules of the society. In the preamble to this, it says, "And whereas we have collected together those rules which we believe to be essential to the existence of Methodism, as well as others, to which we have no objection,—we do now voluntarily, and in good faith, sign our names, as approving of and engaging to comply with the aforesaid collection of rules, or code of laws, God being our helper." So that they publish what they consider to be the code of laws of Methodism, in the year 1797, and they sign that Code with their names. Now, that code has been given in evidence. It is the document, I think, described by the letter "F.,"—the exhibit "F." Do we find that that code of laws begins with the Act of Pacification? By no means. Those laws and rules to which I have referred for the trial of a Preacher by the District Committees, form a part of that code. They precede the Act of Pacification. They were obviously considered, therefore, as in force at the time when this Act was passed, namely, in the year 1797. The mode of trial of a Preacher, by a District Committee, is pointed out. But it may be said, and has been said, that though the District Committee may have a power of trial, they have no power of removing or suspending;—the Act of Pacification, in that clause to which I have referred, takes away that power. Did it so? Why, in the code of laws, that provision for suspending the Chairman of the meeting still remains; and it is perfectly clear, therefore, that the party publishing this code of laws, never considered that that clause in the Act of Pacification could have the meaning that is now assigned to it, namely, that of taking away from the District Committee the power of suspending in any case when the party had not the privilege of the particular trial mentioned in the Act of Pacification.

It appears to me that this is demonstrative upon this. Who are the parties promulgating these laws? Not parties who had slight information; not persons who had only a slight knowledge of the constitution of the Connexion;—why, it was the Legislators themselves,—it was the very parties who promulgated the Act of Pacification;—it was they who promulgated this law, and who, by that very act of their own of promulgation, made it become of itself a Legislative Act; and it is a declaration, by the legislature, that the power of suspension still continues in the District Committee.

But that is not all. I should advert here, however, to a document which was put in on the other side, and much insisted upon; which is handed, as I understand, and I believe that appears in the affidavits, to each Preacher at the time of his ordination; and which document is accompanied with this declaration, that " as long

as you conform and adhere to these rules, we shall rejoice to acknowledge you as a fellow-labourer." That contains the Act of Pacification; that contains the act of the year 1797; but it takes no notice of the preceding acts: and it is said, therefore, that that document is to be put in opposition to the code of laws published in the year 1797, and is to be considered *pro tanto* as an abrogation of them. But I consider this as nothing more than as a guide to the conduct of the Preacher. It is not intended as a perfect code of laws, for this obvious reason, that the regulations as to the District Committee are entirely excluded from it, not merely for the purpose of trial, but for all other purposes. It is quite obvious on the face of that document itself, it was not intended as a transcript of the code of laws, as then existing, but as a mere guide and assistant to the Preacher. It appears to me, therefore, that that document, which is dated as late as the year 1833, cannot have the effect which it was said it was intended to have, of abrogating and annulling the code published in the year 1797.

But now, then, as to what has taken place since the year 1795. From the year 1795, down to the present time, a great variety of instances, at least seventy in number, have taken place;—seventy instances, at least, of Preachers suspended or removed by the District Committees. It is said, that if a law is clear, usage at variance with that law cannot alter the law. But I do not consider, taking the law by itself, for the reasons I have stated, that it is perfectly clear. Standing by itself, it is not perfectly clear. But this is to be considered, with respect to the usage, that it is not the ordinary usage of ordinary persons, acting under a code of laws, but that it is the usage of the very legislative body itself, acting under and interpreting its own laws. Now mark,—a Preacher is suspended by a District Committee;—what is the course that is immediately taken? He is suspended only till the next Conference. The Committee is bound to report to the Conference; and in the Minutes of Conference those reports are regularly entered. Is it possible to suppose, that if, in 1796 or 1797, immediately after the passing of the Articles of Pacification, the District Committee had removed or suspended a Preacher, when they made their report to the Conference, would they not have immediately said, (if that was not the meaning of the law,) "You have acted illegally; you have acted, it may be, with good intentions; but you have acted contrary to our law for promoting the harmony of the society, as promulgated by us in 1795?" But no such thing takes place. The report of the District Committee is entered by the Conference, without comment, and so it goes on from the year 1795 down to the present time. But then it is said, there was an exception. It is said there was no resistance to those cases, because it is very likely the parties themselves, in many instances, would not be disposed to resist, for the reason fairly stated in the affidavit. They might be conscious of their guilt, and if so, they would be desirous that the matter should not be further investigated. But the Conference itself would have been called upon to act, whether the parties had intervened or not; the legislative body would have been bound to act, and would have been of necessity called upon to have considered and declared that to be a violation of the rules. But then it is said, "Mr. Henry Moore's case is an exception. What signifies those seventy cases that have been acted upon and acquiesced in?—Mr. Henry Moore resisted, and in Mr. Henry Moore's resistance he triumphed in his opposition to the District Committee."—Now, really, what are the facts of Mr. Henry Moore's case? Mr. Henry Moore took the chapel under particular circumstances; he took it under an express provision, as I understand, in the will of Mr. Wesley. The Conference had allotted that house to the Superintendent. Mr. Henry Moore, conceiving that he had a right to the house, in defiance of the Conference, refused to give up possession. What did the District Committee do? They assembled, summoned him, and suspended him from his Circuit. Mr. Henry Moore resisted; but what was the limit of his resistance? He did not attempt to preach in the other chapels in the Circuit, but confined his preaching to that particular chapel, and his resistance to that particular house, on the ground which I have stated. He said, "You have no jurisdiction over this particular chapel; I hold it by a particular title; I hold it under the will of Mr. Wesley." But he abandoned his title to all the other chapels; he did not preach there. This matter afterwards came before the Conference; but, from Mr. Moore's high character, and the respect that was entertained for him, the matter went no further, but was suffered to drop. And really it appears to me, that, as to Mr. Henry Moore's case being an exception, his abstaining from preaching in the other chapels, and the discharge of his duties there, is rather a confirmation of it; and that his holding this particular chapel, on particular grounds, shows that he thought he had no right to oppose the general authority of the District Committee, but only that they had no right to disturb him with respect to this particular chapel, on account of the disposition by the will.

It does appear to me, therefore, that the case is very strong, and very clear, with respect to the power of the District Committee, and that the District Committee still, notwithstanding the Act of Pacification, have a right, have authority, to suspend or to remove a Preacher, in all cases, except in those particular cases mentioned in the Act of Pacification, where the Trustees and the other parties therein mentioned choose to interfere. I think, in all other cases, they have authority to suspend or to remove.

Having established that as a preliminary, the next point appears to be very short:—Have they acted regularly, and discharged their duty in acting according to the rules of the society, in the course they have taken? The only rules that appear prescribed in the Act of Pacification are, the giving notice, and the form of summoning the meeting. A copy of the charges was handed to Dr. Warren; he had intimation of the day of meeting; and he attended accordingly. So far, all the proceedings were regular. Dr. Warren afterwards withdrew, and refused to attend his trial. They suspended him; not because they

found him guilty of the charges that had been preferred against him, but they suspended him because he refused to undergo the trial. He said, "I will not attend." They gave him notice: he would not attend; and, if I may make use of the expression with reference to proceedings of this kind, they suspended him for contumacy; that is the fact. Had they power to do so? Why, I refer them back to that which I consider to be the foundation of the whole of this authority, namely, the law of 1791. In a case of emergency the District Committee may meet; they may consider that case of emergency. It is not for us to say whether it was a case of emergency or not; it is for that particular tribunal, the District Committee, to say whether it was a case of emergency or not. They did meet; they considered it was a case of emergency; and they had a power to decide according to their own discretion; and their decision is final until the next Conference. What did they decide? They decided, that because he did not choose to attend the investigation of the case, he should be suspended. I think that comes clearly within the scope and meaning of the article of 1791, as coupled with the law of 1792, and that they had power to do what they did.

It is said that Dr. Warren was harshly treated, in not allowing Mr. Bromley (I think his name was) to attend with him at that meeting. With that I have really nothing to do. The District Committee had a power to regulate their own proceedings. They had a power to do so; and upon whether it was duly exercised or not, I wish to give no opinion. Upon whether it was a discreet exercise of the power, I also give no opinion; but they did exercise that power that no stranger should be present. They have authority to do that; and that does not, therefore, render the proceedings illegal or invalid. It is again said, that the publication by Dr. Warren of his speech that he delivered in the Conference, with the observations affixed to it, was in reality not an offence; not an offence entitling this body to exercise the jurisdiction; and that it did not support the charges that were preferred against him, copies of which were handed to me. The evidence does not appear to have been gone into. I presume that was because he was absent, and did not attend. Whether it did support those charges, or not, was a question for the District Meeting. I have no jurisdiction with respect to it. A particular tribunal is established by the agreement of those parties to decide a question of this kind; I have therefore no authority to say, whether, within the meaning of the rules of this society, this pamphlet was or was not an offence; that was peculiarly for the decision of the District Committee.

I therefore am of opinion, not only that the District Committee had the power to suspend, but I am of opinion that they acted legally. I am not called upon to say more. Whether they acted wisely, discreetly, temperately or harshly, these are matters with which I have no concern, and upon which I desire now to express no opinion. Therefore, upon these two grounds merely, the regularity of the proceedings, and being satisfied of the authority of the body, I am bound to affirm the decision in this respect of the Vice-Chancellor.

I must again, before concluding, express my great regret at the existence of the dissensions which have given rise to these proceedings; and from what I have heard, and from what I may say I know, of the character of Dr. Warren, of his learning, of his piety, of his talents, and of his good conduct, which have been stated on one side, and not even attempted to be contradicted on the other;—taking all these things into consideration, I must express my regret that he should be the sufferer; sufferer, I say, because of a contest which had originated as it appears in the establishment of a particular body, which this society, or a part of this society, thought it right to establish. I express my regret that he should have been the sufferer—I will not say the victim, but the sufferer, in those proceedings.

The judgment, therefore, of his Honour the Vice-Chancellor must be affirmed.

THE failure of Dr. Warren's attempt to overthrow the Wesleyan discipline, by depriving the Preachers of all efficient control over one another during the intervals of Conference, is matter of sincere rejoicing; and will be regarded by all the sound members of the Connexion as affording another proof of a wise and superintending Providence, of which the history of that revival of religion to which the name of Methodism has been given, affords so many striking examples. This triumph of rule and order will not be employed as an occasion of unhallowed exultation over defeated adversaries, but of devout thanksgiving to God; and the discipline of the body, thus mercifully preserved and sanctioned, will be still used to guard and foster that work of God which the Methodist societies exhibit in the length and breadth of the land; for it is the will and design of the Head of the Church, that "on all the glory there should be a defence." The Methodist body may still echo the sentiment of their dying Founder, "The best of all is, God is with us;" and in reference to the democratic movements which have threatened to effect their ruin, they may individually say, with the Apostle of the Gentiles, when speaking of the difficulties and discouragements which beset his path, "I would ye should understand, brethren, that the things which happened unto me have fallen out rather to the furtherance of the Gospel."

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